

DECREE

**IN THE COURT OF THE VI ADDL. SENIOR CIVIL JUDGE,
FAST TRACK COURT, AT MEDCHAL, RANGA REDDY DISTRICT.**

PRESENT : SRI A. SRINIVASA KUMAR, B.A., L.L.B.,
VI Addl. Senior Civil Judge, Fast Track Court, Medchal,
Ranga Reddy District.

DATED THIS THE 6th DAY OF MARCH, 2009.

C.M.A.NO. 103 OF 2008

Between:

M/S. Golden House, having its Office
at plot No.8, S.G.H.B. Colony, Sikh Village,
Secunderabad, Rep., by Its Rep. by Its
Managing Partners:

1. Kanna Bangardiah, S/o. Late Narasaiah,
aged about 52 years, Occ: Agriculture,
R/o. Jawahar Road, Nizamabad.
2. G.Rishi Kumar Reddy, S/o. Sundar Ram Reddy,
Aged about 33 years, Occ: Business,
R/o. Plot No.8, S.C.H.B. Colony, Secunderabad.

v. Appellants.

AND

1. Uppala Sridhar, S/o. Narsaiah,
Aged about Major, Occ: Business,
R/o. H.No.10-22, Gajwal Village and Mandal,
Medak District.
2. Geedipally Rami Reddy, S/o. Narayana Reddy,
aged about Major, Occ: Business,
R/o. H.No.3-49, Turakapally village, Medchal Mandal,
Ranga Reddy District.
3. Akula Krishna Murthy, S/o. Vittal, aged about Major,
Occ: Business, R/o. Plot No.180/A, Old Vasavi Nagar,
Kharkhana, Secunderabad.
4. B.Sathya Narayana S/o. Narsaiah,
Aged about Major, Occ: Business,
R/o. Turkapally Village, Medchal Mandal,
Ranga Reddy District.
5. G.Sanjeewa, S/o. G.Kistaiah, Aged about Major,
Occ: Business, R/o. H.No.2-90, Koukur Village,
Shamirpet Mandal, Ranga Reddy District.

Respondents.

In the Court of the VI Addl. Senior Civil Judge, Medchal R.R. District.



In the court of the Junior Civil Judge, Medchal, R.R. District.

At: Medchal

I.A. No. 460 OF 2007

IN

I.A. No. 538 OF 2007

IN

O.S. No. 136 OF 2007

Between:

M/S. Golden House, having its Office

at plot No. 8, S.C.H.B. Colony, Sikk Village,

Secunderabad, Rep. by its Rep. by its

Managing Partners:

1. Kanna Bangarajiah, S/o. Late Narasiah,

aged about 52 years, Occ: Agriculture,

R/o. Jawahar Road, Nizamabad

2. G. Rishi Kumar Reddy, S/o. Sundar Ram Reddy,

aged about 33 years, Occ: Business,

R/o. Plot No. 8, S.C.H.B. Colony, Secunderabad

... Petitioners/Plaintiffs.

AND

1.

Uppala Sridhar, S/o. Narasiah,

aged about Major, Occ: Business,

R/o. H.No. 10-22, Gajwal Village and Mandal,

Medak District.

2.

Geedipally Ram Reddy, S/o. Narayana Reddy,

aged about Major, Occ: Business,

R/o. H.No. 3-49, Turakapally Village, Medchal Mandal,

Ranga Reddy District.

3.

Akula Krishna Murthy, S/o. Vittal, aged about Major,

Occ: Business, R/o. Plot No. 180/A, Old Vasavi Nagar,

Kharkhona, Secunderabad.

4.

B. Sathya Narayana S/o. Narasiah,

aged about Major, Occ: Business,

R/o. Turakapally Village, Medchal Mandal,

Ranga Reddy District.

5.

G. Sanjeeva, S/o. G. Krishna, Aged about Major,

Occ: Business, R/o. H.No. 2-90, Kourkur Village,

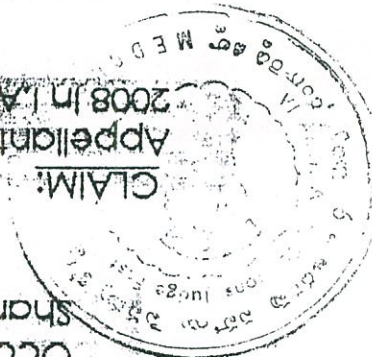
Shamirpet Mandal, Ranga Reddy District.

Respondents/Defendants.

CLAIM: This C.M.A. is filed by the appellants to allow the

Appellants by setting aside the order and decree dated 19-3-

2008 in I.A. 460/2007 in O.S. 136/2007 common orders passed on



the file of the Junior Civil Judge, Ranga Reddy District, Medchal by allowing the appeal with costs.

A fixed court fee of Rs.5/- paid under Article-3(1), Schedule-II of A.P.C.F. & S.V.Act.

C.M.A.Presented on:29-4-2008 C.M.A. Numbered on: 29-4-2008

This Civil Miscellaneous Appeal is coming before me for hearing in the presence of Sri B.Chakrapani, Advocate for the Appellants and of Sri G.B.Raj, Advocate for Respondents and having stood over for consideration till this day, this court doth Order and Decree as follows:

1. That the Civil Miscellaneous Appeal of the Appellants be and the same is hereby allowed.
2. That the respondents are restrained both from interfering with the possession and enjoyment of the petitioners in I.A.460/2007 in I.A.538/2007 in O.S.136/2007 over the suit schedule property and from alienating the suit schedule property till disposal of the main suit.
3. That the Respondents shall do pay a sum of Rs.-Nil- to the Appellants toward costs of the appeal.

Given under my hand and the seal of the court on this the 6th day of March 2009.

VI ADDL.SENIOR CIVIL JUDGE,
FAST TRACK COURT, MEDCHAL,
RANGA REDDY DISTRICT.

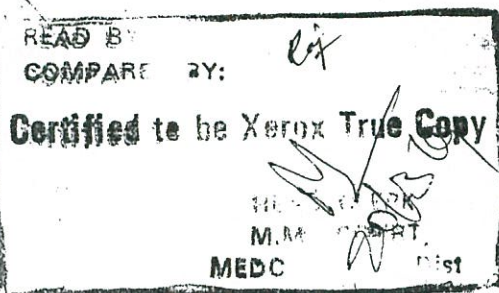
COST OF THE C.M.A.

For Appellant For Respondents

- | | | |
|----------------------|----------|------|
| 1. Stamp on Appeal : | Rs. 5=00 | — |
| 2. Stamp on Power : | 2=00 | 2=00 |
| 3. Process Fee : | — | — |
| 4. Advocate Fee : | — | — |

Total Rs.7=00 4=00

Note: M.C. & F.C. not filed by the Appellants.



VI ADDL.SENIOR CIVIL JUDGE,
FAST TRACK COURT, MEDCHAL,
RANGA REDDY DISTRICT.

COURT OF THE MUNSIF
MAGISTRATE,
MEDCHAL. R.R. DIST
 C.A. No. 366 of 2009
 Petition Filed on: 12/3/09
 Charges Called on: 18/3/09
 Charges Deposited on: 20/3/09
 Receipt No: 370 Rs. 44/-
 Copy made Ready on: 20/3/09
 Copy delivered on: 20/3/09
HEAD CLERK
M.M. COURT
Ref Medchal. R.R. Dist

IN THE COURT OF THE VI ADDL. SENIOR CIVIL JUDGE,
FAST TRACK COURT, AT MEDCHAL, RANGA REDDY DISTRICT.

PRESENT : SRI A. SRINIVASA KUMAR, B.A.,L.L.B.,

VI Addl. Senior Civil Judge,
Fast Track Court, Medchal,
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DATED THIS THE 6th DAY OF MARCH, 2009.

C.M.A.NO. 103 OF 2008

Between:

M/S.Golden House Rep.by its
Managing Partner and another.

... Appellants.

AND

Uppala Sridhar and others.

... Respondents.

In the court of the Junior Civil Judge, Medchal, R.R. District.

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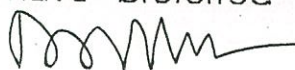
This Civil Miscellaneous Appeal is coming before me for hearing in the presence of Sri B.Chakrapani, Advocate for the Appellants and of Sri G.B.Raj, Advocate for Respondents and having stood over for consideration till this day, this court delivered the following:

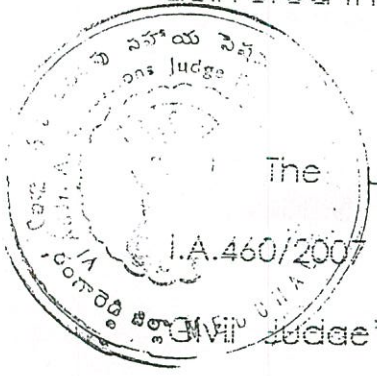
ORDER

The unsuccessful petitioners in both ¹¹⁵ applications i.e.

I.A.460/2007 and I.A.538/2007 in O.S.136/2007 on the file of Junior

Civil Judge's Court: Medchal have preferred this appeal by





challenging the common orders passed by the said court on the

grounds stated in the appeal.

2. The gist of grounds of appeal narrated is that the lower court has failed to look into the documentary evidence, particularly the vendors of the appellants and also other documents. It is also alleged in the grounds of appeal that the lower court has mistook Ex.A3 as the link document of the appellant's vendor and passed wrongful orders. Finally, the appellants prayed to set aside the common order passed by the lower court.

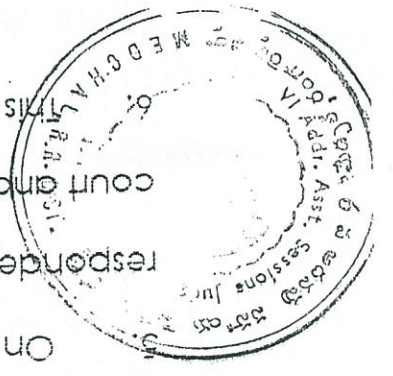
3. Heard, the learned counsel for both the parties.

4. The counsel for appellants has vehemently contended that the lower court has not even touched the documents filed by the appellants, which are clearly disclosing the ownership of their vendor and also the vendors of the vendor. It is also contended by him that the lower court has mistook Ex.A3 as the link document of the vendor of the appellants and failed to assess Ex.A3 in a proper manner. Ex.A3, according to the counsel is the sale deed disclosing the ownership of the alleged vendors of the respondents over some other land, other than the suit Sy.No.50 and therefore, the common order passed by the lower court needs interference and the same is liable to be set aside.

On the other hand, as one could expect, the counsel for respondents has supported the common order passed by the lower court and prayed to dismiss this appeal.

This court has gone through the entire case records, including

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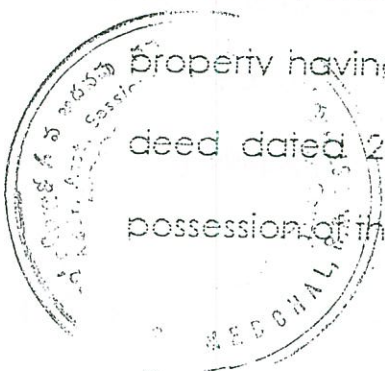


the common order passed by the lower court. Before appreciating the common order, it is appropriate to have a glance at those facts stated in the applications and counters, to such an extent, which are sufficient to dispose off this appeal.

7. I.A.460/2007 has been made by the appellants to restrain the respondents from interfering with their possession over the suit schedule property and I.A.538/2007 has been made by the same appellants to restrain the respondents from alienating the suit schedule property pending the suit. But, for the reasons stated in the common order, the lower court has disbelieved the case of appellants and dismissed both the applications.

8. It is the case of appellants in both the applications that they are the absolute owners of the suit schedule property in Sy.No.50 having purchased the same by way of a registered sale deed dated 24-7-2006 from one Nalamanda Vikram. After that, the appellants have converted the suit schedule property into house plots. But, the respondents without any manner of right tried to interfere with the possession of appellants over the suit schedule property and hence the said applications.

9. On the other hand, the respondents have filed their counters in both the applications by denying the right and title, including possession of appellants over the suit schedule property. According to the respondents, they are absolute owners of the suit schedule property having purchased the same by way of a registered sale deed dated 21-12-2006 and since then, they are said to be in possession of the said property. It is also the case of respondents



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that they have converted the suit schedule property into house plots

by spending huge amounts. Finally, the respondents prayed in their

counters to dismiss both the applications.

10. The learned Junior Civil Judge, while completely relying on

Ex.A3 sale deed has given his findings that Ex.A3 is not the link

document to show the right and title of the vendors of the said

Nalamanda Vikram from whom the appellants have purchased the

suit schedule property by way of Ex.A1 and therefore, the appellants

are not entitled to the injunction orders. But, the view expressed by

the lower court is much against the factual aspects involved in the

suit. However, this court basing on the entire case records, the

common order and the arguments advanced by both the counsel,

has formulated the following questions for consideration.

1. Whether the lower court mistook Ex.A3 as a link

document of the vendor of appellants and failed to

consider Ex.A10 as a link document of such vendor?

2. Whether the lower court failed to look into the pahanies,

which are establishing the title and possession of the

vendors of vendor of appellants?

Whether the common order passed by the lower court is

within the law and facts?

11. It is well settled law that a party who intends a court to pass an

injunction order based on possession in his favour, shall not only

establish his possession over the disputed property, but also his prima

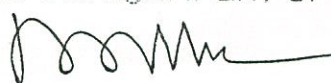
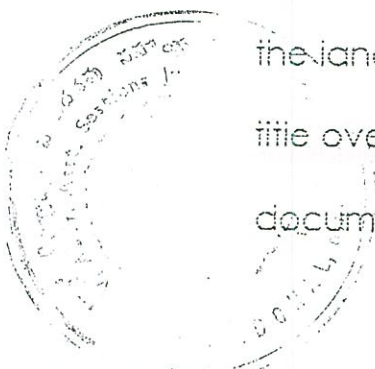
facie case and balance of convenience. The court also while

dealing with such applications, shall be restricted to consider the

aspect of prima facie case only, which means, the court shall not go deep into the factual aspects, which require a detailed trial. But, the lower court has touched the factual aspects in such a manner like in full-fledged Judgment. The lower court also mistook Ex.A3 as a link document of the vendor of appellants and dismissed both the applications on that count only. As rightly contended by the counsel for appellants, the lower court has not looked into the pahanies, which are marked as Ex.A4 to A9 to consider the possession of vendor of appellants and also vendors of such vendor.

12. The appellants have marked Ex.A3 to show the vendor by name P.Vidhyasagar Reddy, had no land in Sy.No.50, so that to sell the same to the said Raju and Shiva Kumar, who in turn sold the same to Peddireddy Venkat Reddy, who in turn sold the same to A.Rajendra Prasad, who in turn sold the same to the present respondents and therefore, the respondents will get no title over the suit schedule property in Sy.No.50. The said contention is very much substantiated by the appellants by way of Ex.A3.

13. This court has gone through Ex.A3 and found that the original vendor i.e. P.Vidhyasagar Reddy had lands to an extent of Ac.22-04 guntas in Sy.Nos.51, 52, 23 and 25, purchased by him by way of a document bearing No.1070. But, the property sold by him to the said K.Raju and Shiva Kumar was a plot No.18 in Sy.No.50. Now, the question is how come the said P.Vidhyasagar Reddy has sold away the land in Sy.No.50 to the said K.Raju and shiva Kumar, without any title over the said land. The respondents have not exhibited the said document No.1070 to atleast know the right if any of the said

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P. Vidhyasagar Reddy over the suit sv.No.50. Therefore, Ex.A3 is a relevant document in favour of the appellants. When, the original vendor P. Vidhyasagar Reddy himself had no title over sv.No.50, the remaining vendors, including the respondents, would get no title over the suit land. The contention of the counsel for respondents that it was a mistake in Ex.A3 for not mentioning the suit sv.No.50, cannot be accepted in the absence of any rectification deed. But, surprisingly, the lower court has come to a conclusion that Ex.A3 is the link document of the vendor of appellants and dismissed the applications even without looking into such link document, which is marked as Ex.A10 in this case.

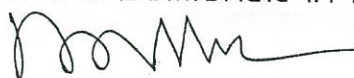
14. It is the case of appellants that they have purchased the suit schedule property in sv.No.50 from the said Nalamanda Vikram by way of registered sale deed dated 24-7-2006, who in turn had purchased the same from one P. Vijaypal Reddy by way of a registered sale deed dated 5-8-1982. The appellants have marked all the sale deeds to show the link i.e. Ex.A1 and A10. Ex.A10 is very clear that the said P. Vijaypal Reddy has sold the suit schedule property in sv.No.50 to the said Nalamanda Vikram and Ex.A1 is clear that the said Nalamanda Vikram sold the suit schedule property in favour of the appellants. Therefore, the appellants could establish their prima facie case, rather than the respondents.

15. Another important failure of the lower court in appreciating the documentary evidence is the pahanies filed by the appellants, which are marked as Ex.A4 to A9. But, this court has taken that exercise in perusing Ex.A4 to A9. Ex.A6 pahanai for the year 1985-86 is

disclosing the name of the said P.Vijaypai Reddy as the pattedar and possessor of the land in suit Sy.No.50. Ex.A7, which is also a pahani for the year 1989-90 is also disclosing the name of P.Vijaypai Reddy as pattedar and possessor of the land in suit sy.No.50. Ex.A8 is also disclosing the same information as that of Ex.A6 and A7. Another pahani i.e. Ex.A9 is disclosing the name of vendor of appellants i.e. Nalamanda Vikram as pattedar and possessor of the suit Sy.No.50 in the year 1999-2000. On the other hand, the respondents failed to link their title over the suit schedule property. Of course, the respondents are given with pattedar passbooks and title deed books, which are marked as Ex.B4 to B9. Of course, Sec.6 of A.P. Pattedar Pass Books Act would indicate presumptive value towards the pattedar passbook. At the same time, such presumption is always rebuttable. In this case, the appellants by way of their documentary evidence could rebut such presumption. Moreover, the purchase of suit schedule property by the appellants was earlier to the purchase of the same suit schedule property by the respondents. Appellants purchased suit schedule property on 24-7-2006 and the respondents on 21-12-2006.

16. Therefore, for the reasons stated above, the common order passed by the lower court needs interference and in the result the common order passed by the lower court in I.A.460/2007 in I.A.538/2007 in O.S.136/2007 is hereby set aside.

17. In the result, this Civil Miscellaneous Appeal is allowed with costs and the respondents are restrained both from interfering with the possession and enjoyment of the petitioners in I.A.460/2007 in



L.A.538/2007 over the suit schedule property and from alienating the

suit schedule property till disposal of the main suit.

(it is to note that what all the findings given by this court in this order are restricted to this order only and both the parties shall not take advantage of those findings in the coming trial of the suit and the lower court shall not be influenced by those findings at the time of trial or judgment)

Dictated to steno-Typist directly in computer and pronounced in the open court on this the 6th day of March, 2009.

[Signature]
VI ADDL SENIOR CIVIL JUDGE
FAST TRACK COURT, MEDCHAL,
RANGA REDDY DISTRICT.

APPENDIX OF EVIDENCE
WITNESS EXAMINED

For Appellants: - NIL -
For Respondents: - NIL -

DOCUMENTS MARKED

For Appellants: - NIL -
For Respondents: - NIL -

[Signature]
VI ADDL SENIOR CIVIL JUDGE
FAST TRACK COURT, MEDCHAL,
RANGA REDDY DISTRICT.

READ BY
COMPARED BY
Certified to be Xerox True Copy
HEAD CLERK
M.M. COURT,
MEDCHAL R.R. Dist

[Signature]
COURT OF THE MUNSIF
MAGISTRATE,
MEDCHAL, R.R. DIST
C.A. No: 366 of 2009
Application Filed on: 12/3/09
Charges Called on: 18/3/09
Charges Deposited on: 20/3/09
Receipt No: 370
Rs. 44/-
Copy made Ready on: 20/3/09
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M.M. COURT
MEDCHAL, R.R. Dist

